

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

WILLIAM JOSEPH RETTSTATT	§	
v.	§	CIVIL ACTION NO. 5:09cv148
LIBERTY-EYLAU INDEPENDENT SCHOOL DISTRICT, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff William Rettstatt, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Rettstatt's complaints revolve around incidents which form the basis of criminal prosecutions pending against him. He states that he went joy-riding in a truck which he took from the Liberty-Eylau Independent School District and served prison time in the State of Arkansas, but now he is being prosecuted for the same incident in the State of Texas.

After review of the proceedings, the Magistrate Judge recommended that the lawsuit be administratively closed, pursuant to Fifth Circuit authority stating that when a prisoner files a federal civil rights lawsuit concerning the same subject matter as state court criminal charges pending against him, the civil rights lawsuit should be stayed until the criminal charges are resolved. Lewis v. Beddingfield, 20 F.3d 123, 124 (5th Cir. 1994). Rettstatt received a copy of the Magistrate Judge's Report but has filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of

plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and documents in this case, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly


ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is ADMINISTRATIVELY CLOSED and placed upon an inactive docket by the Clerk, subject to reopening on further order of the Court. Once Rettstatt's trial or trials on the state criminal charges have concluded, or these charges have otherwise been finally disposed of, he may request that the lawsuit be reopened and replaced upon the active docket. It is further

ORDERED that the Clerk of the Court shall accept no motions or other documents for filing in this cause other than a motion or request to reopen the case, or other notification of change of status, such as a change of address or notice of appearance by counsel. Any documents other than these shall be returned by the Clerk to the party filing said instrument. Finally, it is

ORDERED that all motions which may be currently pending in this cause are DENIED, subject to re-urging upon the reopening of the case.

SIGNED this 7th day of September, 2010.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE